Supplemental Testimony on HB 6604 – An Act Concerning Public Access Television Channels

Submitted to the Energy and Technology Committee

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March 9, 2009

Pursuant to my testimony before the committee on March 5, 2009 and the House Chair's request for additional information, The Connecticut Network respectfully recommends the following modifications to HB 6604:

1. Section 16-1(a), subsection (51) of the general statutes is added as follows:
   (51) "The Connecticut Television Network" means the Connecticut General Assembly's statewide 24-hour state public affairs programming service, separate and distinct from community access channels.

2. Section 16-331s. subsection (b) of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

   (b) A company issued a cable franchise authority certificate shall provide 24-hour transmission of the Connecticut Television Network to all its subscribers, [including real-time transmission as technically feasible.] in its basic service package.

3. Section 16-331h, subsection (c) of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

   (c) Not later than one hundred twenty days after the certified competitive video service provider begins offering service in a designated area pursuant to its certificate of video franchise authority, such provider shall provide 24-hour transmission of the Connecticut Television Network to all its subscribers, [including real-time transmission as technically feasible, under the same conditions as set forth in subdivisions (3) and (4) of subsection (a) of this section.] in its basic service package.

Explanation:

Since the network's inception in 1999, some parties have alleged that there is ambiguity with regard to the legal definition of CT-N. Video service providers have sought to fill that vacuum by providing their own conflicting definitions as to what the Connecticut Network is. In 2005, the cable television industry made the assertion that CT-N is not a community access channel when challenging the General Assembly's standing to mandate its carriage on basic cable. At the time, both the Department of Public Utility Control and members of the Energy & Technology Committee concurred with that assessment (ref. February 15, 2005 Energy &

Technology Public Hearing, HB 6652). In 2008, AT&T first made its argument that CT-N is a community access channel and therefore must be carried in the same manner as PEG channels on its UVerse system. Their position in this matter has in turn complicated carriage negotiations for CT-N on UVerse.

We submit that it should not be the prerogative of individual video service providers to adopt the most convenient definition of the moment for the State of Connecticut's own network. Rather, we believe it is the Legislature's prerogative to adopt one cogent and enduring definition for CT-N. Given that CT-N is not funded, constituted or regulated like a community access channel, we are confident in our argument, unchanged for the past ten years, that while the Connecticut Network represents a "governmental use" by the State in the broadest interpretation of 47 U.S.C. § 531, it is not a community access channel. Indeed, a summary review of federal law indicates that Congress saw fit to separate community access and governmental use. Similarly, the General Assembly saw fit to enumerate CT-N separately from the PEG in the original Certificate of Franchise Authority statute. This would seem to confirm the Legislature's intent to differentiate CT-N from community access, however, the General Assembly's adoption of a clear definition would put this issue to rest for once and for all.

CT-N believes that its proposed modifications to HB 6604 will provide the long-sought definition for the network, clarifying its status for all video service providers while preserving the legislature's capacity to promulgate its existing statewide standard for CT-N through individual negotiation with providers. We thank you for your consideration.